

that of assistant city counselor by appointment. As a lawyer, he severed all connection with corporation clients in 1900.

It was probably at about that time, too, that Mr. Walsh swung actively into the game of social service. Before that time he had been, as he is yet, a strong supporter of union labor, and his private charities were manifold. But in that earlier time politics seemed to him about the only worth while field for a man to work in, and the party was a strong fetish. "Why, actually," he says with a smile today, "I thought it was immodest for a man to set up his own opinion against that of his party."

Walsh will tell you that he was going along by instinct rather than insight until he met Charles Ferguson, that inspirational minister and radical and "friend of the people," who set forward much social work and stimulated many social workers in Kansas City. The late years have found Walsh combining politics and this social service for the betterment of the plain man's living. He fought the Metropolitan franchise grab; he established the Kansas City board of pardon and paroles, later developed into the board of public welfare; he led the people's lobby in the fight for the public utilities law of Missouri. And those are only random instances. He is a factor in the remarkable social advancement of Kansas City.

You will see that this is the record of a fighting idealist—fighting with himself against his own prejudice, as well as fighting in the outer field.

"The real question of this day," said the Idealist Walsh, "is the material question, the economic one. The rights of man of this time are the right to eat, the right to live decently, the right to work, the right to a comfortable home, the right to have children without wondering whether his children hadn't better die than grow up.

"I'm done with compromise." The Irish jaws clamped tight. It was the fighting face that showed. "I'm not going just to strike a bargain with other men to get a little here and a little there. There's too much sham in it all. It is a sham to think that the men who make the laws are running this country, or that any servants of the people are running it, much less the people themselves. They're not. This is a government of the people, by the federal judges, for the special interests.

"Run for governor, indeed!" said Walsh. "Why? What good would that do? The Missouri legislature in the Folk administration passed a world of good laws, and the federal court worked overtime to undo what had been accomplished for the people. The interests kept the rails hot between Jefferson City and Kansas City and Red Oak, Iowa.

"What's the remedy? Well, we can't amend the constitution, but we can put men in the courts who will be for the rights of man rather than for the wrongs of property. We can put a progressive sentiment behind the laws so strong that the judges, from the lowest to the highest courts, will be afraid to overthrow the people's will.

"It is ridiculous to say that judges declare the law as they find it. They declare it the way they believe it to be, and they believe it to be the way they want it to be. I could pick seven honest members of the Kansas City bar who believe in municipal ownership and put them on the Jackson county bench, and they will all quote you complete authority for the proposition that the city could take over the Metropolitan Street Railway company. And then I could pick seven other equally able and honest lawyers who did not believe in municipal ownership, and put them on the same bench, and they would quote you complete authority for the exactly opposite proposition, that the city could not take over the Metropolitan.

"The question of government of this day, then, is the question of who controls the courts. Do you know the first step I'd take, if I could, to give the people control? I'd have congress pass a law wiping out every federal court under the supreme court. There is no diversity of citizenship in this country now. There may have been when congress established the courts. Virginians may have thought they could not get a square deal in Massachusetts in those days, and Massachusetts may have mistrusted Virginia. But it is a mistake to assume now that the citizens of one state cannot get justice from the citizens and courts of another state. It's a mistake to let a corporation do business in one commonwealth but bring its own court along with it for its own brand of justice.

"No," and the Walsh good nature chased away

the fighting face; "there is too much work to do putting the people next for me to fool myself running for governor or being governor. I am a democrat because I believe the people of that party have the best idea of what they want and how to get it, but if the democratic party gets betrayed into wrong hands, I'm going to be free to vote and work for the right hands wherever they show themselves. And, anyhow, I've told you where my work lies—in the outer field with the agitators, the men who won't stand for lies because they are old.

"And I like my job. I am leading the life I want to lead. In my private business as a lawyer I have not a regular client, excepting, in one sense, some labor unions. I am as free as any man can be to speak my mind and advocate the things I think are right. So, while I am gratified at the honorable mention I have had, and thank the many personal friends and other citizens for the support they have offered, I wouldn't take the office or the nomination if I could get it—and, in spite of what some friends are kind enough to believe, I am sure I could not get either the nomination or the office if I would."

Judicial Tyranny Is Rebuked

Facts in the Thatcher Case

(See 80 Ohio State, 492.)

The following story will interest the readers of The Commoner. It shows what judges will sometimes resort to and how judges can be rebuked.

In the fall of 1908 Lindley W. Morris was a candidate for re-election as judge of the common pleas court at Toledo, O. The candidate against him was Curtis T. Johnson, a lawyer of ability who had not served as judge.

Judge Morris was conducting a spirited campaign, claiming that he was a friend of the common people and enemy of trusts and corporate interests, in short that he was partial in his decisions to one class of people as against another class.

One Charles A. Thatcher was a member of the Toledo bar. When a student of law he was in the office of the Hon. Frank H. Hurd, who had made a reputation at the bar because of successfully prosecuting many cases against railroad and other corporate interests to collect damages because of personal injuries.

Mr. Thatcher continued this line of practice after the death of Mr. Hurd. He practiced in Judge Morris' court for some years and became convinced that Judge Morris was too friendly to corporate interests as shown by his action in taking numerous cases brought against corporations from the jury and directing the juries to return verdicts for the corporations.

After the claims of Morris had been widely published during the campaign, Mr. Thatcher and Mr. Ben W. Johnson, brother of the opposing candidate, a lawyer and assisting prosecuting attorney of Lucas county, caused the public records of the court in which Judge Morris had sat to be examined by a competent clerk and published the same in the form of a newspaper, called "The Judicial Reform Bulletin."

The purpose of the articles so published was to counteract the claims made by Judge Morris to the effect that he was a "friend of the people" and was an effort to show what Mr. Thatcher and Mr. Johnson thought to be his real character.

Mr. Curtis T. Johnson defeated Judge Morris at the polls.

Some time after this certain railroad lawyers, whom Mr. Thatcher had frequently opposed in hotly contested suits, caused a complaint to be lodged with the supreme court of Ohio, to the effect that the action of Mr. Thatcher in publishing Judge Morris' record was unprofessional but said nothing concerning Ben W. Johnson, whom they knew had taken part in the publication.

Two leading lawyers of Columbus asked the court for a hearing before any action was taken in the complaint.

No response was made to their request.

Frequently, in years past complaints had been made to the supreme court against lawyers in different parts of the state but that court had always refused to entertain them, one of the judges once saying: "If we entertained complaints against members of the bar, we would do nothing else but wash dirty linen from every county in the state. You must start such matters in your home county."

The supreme court appointed a committee of six members of the Toledo bar, four of whom were attorneys for railroads and enemies of Mr. Thatcher, with instructions to prepare and file

charges against him instead of investigating, and if just cause existed, to file such charges.

The committee did as ordered.

Counsel for Mr. Thatcher filed a motion setting out the fact that the supreme court had always refused to entertain original complaints against attorneys; that a large number of witnesses would be required on both sides who would be required to travel more than one hundred miles to the place of trial; that the time of the court would be taken up for a number of days and that the expense and inconvenience of a hearing so far from the residence of respondent and his witnesses would work a great hardship upon him, and asked that the matter be referred to a court of competent jurisdiction at Toledo.

During the hearing of this motion reference was made to the fact that in the newspaper in which respondent had criticised Judge Morris there were criticisms of a like nature concerning Judges Schauck and Price, who were then sitting as members of the Ohio supreme court, before whom it was proposed to try Mr. Thatcher; that this fact would make it improper that the case should be heard by that court.

It was then announced by a member of the committee in the presence of the full bench that it was understood that Judges Schauck and Price would not sit at the hearing. No dissent was made to this statement.

The court refused to send the complaint back to Toledo.

The case was called for trial in June, 1909, with Judges Schauck and Price in the bench and no notice to respondent or his counsel that they intended to sit.

Nearly a week was occupied in taking evidence. Respondent sought to show the character of the campaign that Judge Morris had made in his own behalf and that the publication made by respondent and Mr. Johnson was only an effort to meet the same. The court refused to receive proofs of these matters. On June 26, 1909, the court entered an order of disbarment, basing its action on the publication made concerning Judge Morris and also on the fact that respondent had filed affidavits of prejudice against Judge Morris and had caused suit to be brought on notes that the court found he knew had been paid.

The statute of Ohio provides that affidavits of prejudice could be filed against a judge by a lawyer when the latter believed that such prejudice existed.

Mr. Thatcher had exercised his statutory right.

As to the suit on the notes, respondent contended that the same were not paid and that the suit was still pending to collect on the notes and no order should be made by the supreme court until the case could be heard on its merits. The supreme court refused to await the determination of the case and on an ex parte hearing, without the intervention of a jury, made a finding that respondent ought not to have brought the suit.

The case on the notes has since been heard on its merits and a verdict rendered finding that the notes were not paid. The incongruous condition exists of a verdict in favor of a plaintiff in a suit while the lawyer stands disbarred for having brought the case.

Mr. Thatcher defended his action in criticizing Judge Morris on the ground that he was acting in his private capacity as a citizen in taking part in a political campaign; had the constitutional right to indulge in free speech and the publication of free press; that he had told the truth; that it was not only his privilege but his duty to make known the facts which he felt showed the unfitness of the candidate to be elected to a judicial office; that a judge was no more immune from criticism than any other candidate for office; that if he had libeled Judge Morris he was ready to respond in a civil or criminal action but that the matter had nothing to do with the practice of law.

The court held otherwise. At the hearing Ben W. Johnson voluntarily appeared as a witness and testified that he had written many of the articles published in the Judicial Reform Bulletin, and, having the campaign of his brother in charge, had censored all that Mr. Thatcher had written before it was published.

The statute of Ohio provides that when it shall come to the knowledge of any court that a lawyer has probably been guilty of unprofessional conduct, the court shall cause proceedings in disbarment to be brought.

Though Mr. Johnson openly stated in the presence of the full bench of the supreme court of the state of Ohio that he had participated in all that was charged against Mr. Thatcher, no